

104TH CONGRESS
1ST SESSION

H. R. 892

To reauthorize the independent counsel statute, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1995

Mr. DICKEY (for himself, Mr. SHAYS, Mr. INGLIS of South Carolina, and Mr. BONILLA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reauthorize the independent counsel statute, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Independent Counsel
5 Accountability and Reform Act of 1995”.

6 **SEC. 2. EXTENSION.**

7 Section 599 of title 28, United States Code, is
8 amended by striking “Reauthorization Act of 1994” and
9 inserting “Accountability and Reform Act of 1995”.

1 **SEC. 3. BASIS FOR PRELIMINARY INVESTIGATION.**

2 (a) INITIAL RECEIPT OF INFORMATION.—Section
3 591 of title 28, United States Code, is amended—

4 (1) in subsection (a)—

5 (A) by striking “information” and insert-
6 ing “specific information from a credible source
7 that is”; and

8 (B) by striking “may have” and inserting
9 “has”;

10 (2) in subsection (c)(1)—

11 (A) by striking “information” and insert-
12 ing “specific information from a credible source
13 that is”; and

14 (B) by striking “may have” and inserting
15 “has”; and

16 (3) by amending subsection (d) to read as fol-
17 lows:

18 “(d) TIME PERIOD FOR DETERMINING NEED FOR
19 PRELIMINARY INVESTIGATION.—The Attorney General
20 shall determine, under subsection (a) or (c) (or section
21 592(c)(2)), whether grounds to investigate exist not later
22 than 15 days after the information is first received. If
23 within that 15-day period the Attorney General deter-
24 mines that there is insufficient evidence of a violation of
25 Federal criminal law referred to in subsection (a), then
26 the Attorney General shall close the matter. If within that

1 15-day period the Attorney General determines there is
 2 sufficient evidence of such a violation, the Attorney Gen-
 3 eral shall, upon making that determination, commence a
 4 preliminary investigation with respect to that information.
 5 If the Attorney General is unable to determine, within that
 6 15-day period, whether there is sufficient evidence of such
 7 a violation, the Attorney General shall, at the end of that
 8 15-day period, commence a preliminary investigation with
 9 respect to that information.”.

10 (b) RECEIPT OF ADDITIONAL INFORMATION.—Sec-
 11 tion 592(c)(2) of title 28, United States Code, is amended
 12 by striking “information” and inserting “specific informa-
 13 tion from a credible source that is”.

14 **SEC. 4. PROSECUTORIAL JURISDICTION OF INDEPENDENT**
 15 **COUNSEL.**

16 (a) PROSECUTORIAL JURISDICTION.—Section 593(b)
 17 of title 28, United States Code, is amended—

18 (1) in paragraph (1)—

19 (A) by striking “define” and inserting
 20 “, with specificity, define”; and

21 (B) by adding at the end the following:

22 “Such jurisdiction shall be limited to the al-
 23 leged violations of criminal law with respect to
 24 which the Attorney General has requested the
 25 appointment of the independent counsel, and

1 matters directly related to such criminal viola-
2 tions.”; and

3 (2) by amending paragraph (3) to read as
4 follows:

5 “(3) SCOPE OF PROSECUTORIAL JURISDIC-
6 TION.—In defining the independent counsel’s pros-
7 ecutorial jurisdiction, the division of the court shall
8 assure that the independent counsel has adequate
9 authority to fully investigate and prosecute the al-
10 leged violations of criminal law with respect to which
11 the Attorney General has requested the appointment
12 of the independent counsel, and matters directly re-
13 lated to such criminal violations, including perjury,
14 obstruction of justice, destruction of evidence, and
15 intimidation of witnesses.”.

16 (b) CONFORMING AMENDMENT.—Section 592(d) of
17 title 28, United States Code, is amended by striking “sub-
18 ject matter and all matters related to that subject matter”
19 and inserting “the alleged violations of criminal law with
20 respect to which the application is made, and matters di-
21 rectly related to such criminal violations”.

22 **SEC. 5. AUTHORITIES AND DUTIES OF INDEPENDENT**
23 **COUNSEL.**

24 (a) OFFICE SPACE.—Section 594(l)(3) of title 28,
25 United States Code, is amended to read as follows:

1 “(3) OFFICE SPACE.—The Administrator of
2 General Services shall promptly provide appropriate
3 office space for each independent counsel. Such of-
4 fice space shall be within a Federal building unless
5 the Administrator of General Services determines
6 that other arrangements would cost less.”.

7 (b) COMPLIANCE WITH POLICIES OF THE DEPART-
8 MENT OF JUSTICE.—

9 (1) AMENDMENTS.—Section 594(f) of title 28,
10 United States Code, is amended—

11 (A) by striking “, except where not pos-
12 sible,” and inserting “at all times”; and

13 (B) by striking “enforcement of the crimi-
14 nal laws” and inserting “the enforcement of
15 criminal laws and the release of information re-
16 lating to criminal proceedings”.

17 (2) PRIOR AMENDMENTS.—The amendments
18 made to section 594(f) of title 28, United States
19 Code, by section 3(e) of the Independent Counsel
20 Reauthorization Act of 1994 are repealed.

21 (c) LIMITATION ON EXPENDITURES.—Section 594 of
22 title 28, United States Code, as amended by subsection
23 (a) is amended by adding at the end the following:

24 “(n) LIMITATION ON EXPENDITURES.—No funds
25 may be expended for the operation of any office of inde-

1 pendent counsel after the end of the 2-year period after
2 its establishment, except to the extent that an appropria-
3 tions Act enacted after such establishment specifically
4 makes available funds for such office for use after the end
5 of that 2-year period.”.

6 **SEC. 6. REMOVAL, TERMINATION, AND PERIODIC RE-**
7 **APPOINTMENT OF INDEPENDENT COUNSEL.**

8 (a) **GROUND FOR REMOVAL.**—Section 596(a)(1) of
9 title 28, United States Code, is amended by adding at the
10 end the following: “Failure of the independent counsel to
11 comply with the established policies of the Department of
12 Justice as required by section 594(f) or to comply with
13 section 594(j) may be grounds for removing that inde-
14 pendent counsel from office for good cause under this sub-
15 section.”.

16 (b) **TERMINATION.**—Section 596(b)(2) of title 28,
17 United States Code, is amended to read as follows:

18 “(2) **TERMINATION BY DIVISION OF THE**
19 **COURT.**—The division of the court may terminate an
20 office of independent counsel at any time—

21 “(A) on its own motion,

22 “(B) upon the request of the Attorney
23 General, or

24 “(C) upon the petition of the subject of an
25 investigation conducted by such independent

1 counsel, if the petition is made more than 2
2 years after the appointment of such independ-
3 ent counsel,

4 on the ground that the investigation conducted by
5 the independent counsel has been completed or sub-
6 stantially completed and that it would be appro-
7 priate for the Department of Justice to complete
8 such investigation or to conduct any prosecution
9 brought pursuant to such investigation, or on the
10 ground that continuation of the investigation or
11 prosecution conducted by the independent counsel is
12 not in the public interest.”.

13 (c) MONTHLY EXPENDITURES.—

14 (1) AMENDMENT.—Section 596(c) of title 28,
15 United States Code, is amended by adding at the
16 end the following:

17 “(3) On or before the end of each month, an inde-
18 pendent counsel shall report to the committees listed in
19 paragraph (2)(B) the amount expended in the previous
20 month.”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1), shall take effect at the end of the
23 1st month beginning after the date of the enactment
24 of this Act.

1 (d) PERIODIC REAPPOINTMENT.—Section 596 of title
2 28, United States Code, is amended by adding at the end
3 the following:

4 “(d) PERIODIC REAPPOINTMENT OF INDEPENDENT
5 COUNSEL.—If an office of independent counsel has not
6 terminated before—

7 “(1) the date that is 2 years after the original
8 appointment to that office, or

9 “(2) the end of each succeeding 2-year period,
10 such counsel shall apply to the division of the court for
11 reappointment. The court shall first determine whether
12 the office of that independent counsel should be termi-
13 nated under subsection (b)(2). If the court determines
14 that such office will not be terminated under such sub-
15 section, the court shall reappoint the applicant if the court
16 determines that such applicant remains the appropriate
17 person to carry out the duties of the office. If not, the
18 court shall appoint some other person whom it considers
19 qualified under the standards set forth in section 593 of
20 this title. If the court has not taken the actions required
21 by this subsection within 90 days after the end of the ap-
22 plicable 2-year period, then that office of independent
23 counsel shall terminate at the end of that 90-day period.”.

1 **SEC. 7. GAO REPORT.**

2 The Comptroller General of the United States shall
3 submit to the Congress, not later than 1 year after the
4 date of the enactment of this Act, a report setting forth
5 recommendations of ways to improve controls on costs of
6 offices of independent counsel under chapter 40 of title
7 28, United States Code.

